

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF NORTH CAROLINA

DANA B. FULK
THE ESTATE OF JOHN H. FULK, III,
JOHN H. FULK, III

Plaintiff,

NORFOLK SOUTHERN RAILWAY
COMPANY and NORFOLK SOUTHERN
CORPORATION,

Defendants.

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CASE NO.: 1:13-cv-00234

JOINT STATEMENT REGARDING STIPULATION OF DISMISSAL

COME NOW the parties, by and through their attorneys, and hereby file a Joint Statement Regarding Stipulation of Dismissal, as required by the Court's Order of March 2, 2016 in this matter. The parties show unto the Court as follows:

1. The Court entered an Order on March 2, 2016, directing the parties to file a Stipulation of Dismissal by March 25, 2016 and, if not, to file a joint statement to the Court detailing the reason(s) for non-compliance with the filing deadline.

2. The March 25, 2016 deadline was imposed by the Court following representations (a) by Plaintiffs' counsel that the Stipulation of Dismissal would be filed once the Defendants delivered the settlement funds to Plaintiffs' counsel and those funds cleared the Plaintiffs' attorneys' trust account, ten banking days following deposit of same, and (b) by the Defendants' counsel that it was the Defendants' hope that settlement funds could issue and be received by Plaintiffs' attorneys by March 11, 2016. At the time Defendants' counsel made such statements to the Court regarding when the check could

issue, the in-house representative for the Defendant was in trial out-of-state on another matter and had given assurances she would implement an expedited check process upon her return.

3. Upon her return from trial on March 8, 2016, Defendants' in-house representative issued an expedited request for the settlement funds due Plaintiff. The check was issued to in-house counsel on March 16, 2016 and the check was received by Defendants' counsel on March 17, 2016. Defendants' counsel overnighted the check to Plaintiffs' counsel and Plaintiffs' counsel received and deposited the check on March 18, 2016. The settlement funds have not yet cleared Plaintiffs' counsel's trust account.

4. In light of the intervening Easter holiday, the settlement funds are expected to clear Plaintiffs' counsel's trust account on April 4, 2016.

5. The parties respectfully request that the Court permit the Stipulation of Dismissal to be filed April 5, 2016, after Plaintiffs' counsel has had the opportunity to ensure good funds.¹

WHEREFORE, the parties pray that the Court enter an Order allowing the parties to file a Stipulation of Dismissal on or before April 5, 2016 and that the Court grant unto the parties such other and further relief as the Court may deem just and proper.

This the 24th day of March, 2016.

¹ In the unlikely event the funds are not good, Plaintiffs would reserve the right to file a motion to enforce settlement on this date, in lieu of a Stipulation of Dismissal.

/s/ M. Daniel McGinn

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